

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RALPH MCCLAIN,	:	Civil No. 1:19-cv-1624
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA DEPARTMENT	:	
OF CORRECTIONS, et al.,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

Before the court is a report and recommendation of Magistrate Judge Carlson (Doc. 35) in which he recommends that the motion to dismiss be denied without prejudice to the consideration of the issues raised therein on a more fully developed factual record through a motion for summary judgment. Objections to the report and recommendation were due on July 23, 2020, and to date, no objections have been filed.

In considering whether to adopt a report and recommendation when no objections have been filed, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record and upon a careful

review of the report and recommendation, the court is satisfied that the report and recommendation contains no clear error and will therefore adopt the recommendation. Accordingly, **IT IS HEREBY ORDERED AS FOLLOWS:**

- 1) The report and recommendation (Doc. 35) is **ADOPTED**;
- 2) Defendants' motion to dismiss (Doc. 29) is **DENIED** without prejudice to renewal through a properly documented motion for summary judgment;
and
- 3) This matter is remanded to Magistrate Judge Carlson for further proceedings.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: September 8, 2020